

MINUTES OF THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

The meeting was called to order by Chairman Steven Brunk at 3:04 p.m. on February 08, 2011, in Room 346-S of the Capitol.

All members were present except:

Representative Peterson - Excused

Committee staff present:

Mike Heim, Office of the Revisor of Statutes  
Doug Taylor, Office of the Revisor of Statutes  
Julian Efird, Kansas Legislative Research Department  
Dennis Hodgins, Kansas Legislative Research Department  
Stephen Bainum, Committee Assistant

Conferees appearing before the Committee:

Representative Caryn Tyson	
Kris W. Kobach	
Lynne Oharah	
Nancy Hanahan	
Kathy Brown	
Dennis Bixby	
Earl Long	
W. Paul Degener	
Representative Connie O'Brien	
Representative Virgil Peck, Jr.	Written Only
Renee Slinkard	Written Only
Helen Van Etten	Written Only
Ellie Davey	Written Only
Jeffrey G. Locke	Written Only
Kandy Abernathy	Written Only
Linda Haverfield	Written Only
Ken Dunwoody	Written Only
Tina Ramirez	Written Only
Ed Hayes	Written Only

Others attending:

See attached list.

The Chairman called for bill introductions. Martha Gabehart introduced a bill to amend the Kansas Act Against Discrimination to align with the Americans with Disabilities Act. It was received without objection. Martha also introduced HB 2336 concerning the Kansas employment first initiative act for persons with disabilities. It was also received.

The Chairman introduced HR 5013, the Kansas Real Act dealing with spending limitations. It is a constitutional amendment. It was received without objection.

The Chairman opened the hearing on **HB 2006 Repeal of K.S.A. 76.731a which grants residency for tuition purposes to certain aliens who are unlawfully present in the United States**

Mike Heim, Office of the Revisor of Statutes, said that the gist of the bill is on page 3, lines 9-12 which disallows an alien, who is not lawfully in the United States, resident fees in any state educational institution.

Representative Goico asked if the current statute required such alien to have attended three years of High School in Kansas and graduated in Kansas or obtained a GED and to file paperwork as to what his commitment for citizenship will be.

Representative Knox asked if the Federal government were to make them legal residents, would in state tuition apply? Mike agreed that would be true.

Representative Tyson presented testimony as a proponent of **HB 2006** ([Attachment 1](#)). She testified that aliens who have violated federal law are paying in-state tuition rates while lawful aliens and out-of-state U.S. Citizens are paying non-resident fees. Since Kansas is strapped for funds we should not continue to support people who are not lawfully in our country. The Kansas Board of Regents documents 413 students enrolled and paying in-state-tuition under K.S.A. 76-731a in 2010. This is an estimated cost of \$573, 120 per semester. Foreign exchange students , here legally, pay non-resident fees in Kansas.

Representative Gregory asked if families on military bases were granted in-state-tuition? Representative Tyson said there were provisions for them to pay in-state-tuition.

Representative Goico asked if the 413 includes community colleges, universities and trade schools? Representative Tyson said that it did.

Kris W. Kobach presented testimony as a proponent of **HB 2006** ([Attachment 2](#)). He pointed out that Kansas is in violation of federal statutes prohibiting states from giving in-state tuition to illegal aliens. Giving in-state-tuition to illegal aliens is rewarding those who break federal law. Kansas gains no productivity benefit from graduates who are here illegally. It is against the law to hire them. Finally, giving in-state-tuition to illegal aliens is a magnet to lure them to stay in Kansas. By doing so they are breaking federal law and can be barred from obtaining a visa for ten years.

Representative Seiwert asked if this would be discrimination in not allowing a resident of the state in-state-tuition. Kris said that there were two kinds of discrimination under Kansas law. One is discriminating against legal aliens in favor of illegal aliens; the other is against a US citizen coming from another state in favor of an alien unlawfully present here. So yes, we are discriminating against US citizens who are non-residents of Kansas.

Representative Loganbill said that the aliens unlawfully here must pay full tuition and they are not eligible for any grants or state aid. However students coming in from another state are eligible for grants and state aid. That means to me that they are not being subsidized.

Kris said that the subsidy occurs whenever we grant in-state-tuition to an individual. The subsidy is roughly equivalent to the difference between the in-state and out-of-state tuition.

Representative Victors asked how many states are giving in-state-tuition. Kris said it was 10.

Representative Goico asked a question for the Research Department. How does this apply to junior colleges and trade schools? What is the subsidy for junior colleges and trade schools? Representative Tyson thought the difference was about three thousand dollars with a full time load.

Lynne Oharah submitted testimony as a proponent of **HB 2006** ([Attachment 3](#)). A study by the Federation for American Immigration Reform says that the cost for illegal immigration is \$100 billion and 75 percent of the total is borne by state and local taxpayers.

Nancy Hanahan presented testimony as a proponent of **HB 2006** ([Attachment 4](#)). She indicated that Kansas is flagrantly disobeying Federal law by granting in-state-tuition to illegal aliens.

Kathy Brown submitted testimony as a proponent of **HB 2006** ([Attachment 5](#)). She said that the United States was not the emergency room for the world and we are not the university to the world.

The Chairman suspended testimony at 3:58 p.m to allow another committee the use of the room. Testimony was resumed at 4:54 p.m.

Dennis Bixby presented testimony as a proponent of **HB 2006** ([Attachment 6](#)). He said that Kansas is in debt and cannot meet its current obligations. To pay in-state subsidies to illegal aliens would be like rewarding illegal behavior.

Earl Long gave testimony as a proponent of **HB 2006** ([Attachment 7](#)). He said that KSA 76-731a had two unintended consequences. One was that a Kansas resident was denied in state tuition. The second was that an illegal alien was granted in state tuition. Passage of **HB 2006** would change that.

Minutes of the House Federal and State Affairs Committee at 3:04 p.m., on February 08, 2011 in Room 346-S of the Capitol

Paul Degener presented testimony as a proponent of **HB 2006** ([Attachment 8](#)). He was offended that Minutes of the House Federal and State Affairs Committee at 3:04 p.m. on February 08, 2011, in Room 346-S of the Capitol.

illegal aliens were receiving in-state-tuition while United States citizens were not.

Representative Connie O'Brien presented testimony as a proponent of **HB 2006** ([Attachment 9](#)). She recounted a time when with her son she observed an incident where an obvious illegal alien was requesting her scholarship money. The clerk asked to see some state issued ID and she responded that she did not have a state issued ID. That included a drivers license. They concluded that she must have been an illegal alien.

Representative Goico replied that she was not entitled to financial aid. Anyone who is here illegally is not entitled to state or federal financial aid.

Representative Gatewood asked how they could tell that she was illegal. Connie said she was not black or Asian and she had olive complexion. I was struck by the fact that she was driving on our streets without a drivers license.

The following presented written only testimony as proponents of **HB 2006**.

Representative Virgil Peck, Jr. ([Attachment 10](#)). He said that a large majority of Kansas voters oppose using their tax dollars to subsidize the college tuition of illegal immigrants.

Renee Slinkard ([Attachment 11](#)), does not want his tax dollars being spent on in-state-tuition for illegal aliens.

Helen Van Etten ([Attachment 12](#)) said that it does not make sense to give a tax break for breaking the law.

Ellie Davey ([Attachment 13](#)) asked the legislature to repeal any law that gave illegals a reward.

Jeffrey G. Locke ([Attachment 14](#)) said that no student of illegal alien status should be able to qualify for in-state-tuition.

Kandy Abernathy ([Attachment 15](#)) lives in Missouri and her daughter wants to go to college in Kansas. She will have to pay out of state tuition. How is it fair that an illegal immigrant would get in-state-tuition.

Linda Haverfield ([Attachment 16](#)) said that college enrollment is a priviledge, not a right, and illegal aliens do not have rights.

Ken Dunwoody ([Attachment 17](#)) tells the story of his daughter who was wounded in Iraq. She is not a Junior at Kansas State.

Tina Ramirez ([Attachment 18](#)) said that we should not encourage people to do anything illegal.

Ed Hayes ([Attachment 19](#)) said that the in-state-tuition breaks for illegals is one of the magnets that brings illegals to Kansas..

The hearing was held open in order to hear the opponents tomorrow.

The next meeting is scheduled for February 9, 2011.

The meeting was adjourned at 5:35 p.m.

# HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

2-8-11

ROOM 346-S

NAME	REPRESENTING
Nancy Hanahan	KS Jayayers
Don Dreaug	So S
Kris Kobach	"
Johnathan Reeves	Rep. Davis
Conis Meyer	Kansas Reporter
Kathy Cook	KS FAMILIES FOR EDUCATION
Amber Versola	KS NOW
Dennis Mersmann	interested party
Sister Therese Bangert	Sisters of Charity of Leavenworth
Angela Ferguson	MOKS American Immigration Lawyers Assocn
Alayne Vilchis	student testimony op
Andrea L. Pardo-Spalding	student testimony
Erin Fleming	KS/MO DREAM Alliance
DAVID J. GRUMMEN	MORE <sup>2</sup>
Ricardo Quiñones	KS/MO Dream Alliance
Will Suarez	KS/MO Dream Alliance
ROGER A. THOMAS	INTERESTED KS RESIDENCE - PRO
Kathy Brown, Esq.	Patriots Coalition / Minute
Laurie Anderson	Immigrant Justice Advocacy Movement
Lalo Muñoz	eulalio02@yahoo.com
D. Rouner	Kea Family Assoc.
Chia Budemeier	Kansas Eagle Journal
BEATRICE SWOOPES	Kansas Catholic Conference

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

2-8-11

ROOM 346-S

NAME	REPRESENTING
PAUL DEGENER	Concerned Citizen
Jan Price	concerned American
Mrs Rose Earp	Interested Party
Roscoe EARP	" "
LARRY BEEB	ICACT
Lynne Oharah	Self
Ed Hayes	MINUTEMEN OF KANSAS & MISSOURI
Aimee Rosenow	Intern - O'Brien
Shahiro Stafford	g Grain & Feed Assn.
George Wilber	Self
WALTER ENGELHARDT	SELF
James Eric Todd	Intern - Grosseode
TED HEALY	CAPITOL STRATEGIES.
Taylor Zimmerman	Intern - Wolfe Moore
DICK CARTER	JCCC
John Pinegar	Washburn University
Jonathan Krueger	ICBOR
David Smith	SW ASSN
John Kuchel	Wt World

HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE

2-8-11

ROOM 346-S

[illegible]

Caryn Tyson  
P.O. Box 191  
Parker, KS 66072  
February 7, 2011

Steve Brunk  
Chairman Federal and State Affairs Committee  
State Capitol  
300 SW 10<sup>th</sup> Ave.  
Topeka, KS 66612

Dear Chairman Brunk and Committee Members:

I am asking for your support of House Bill 2006 (HB2006). This bill will repeal existing Kansas Statutes 76-729 and 76-731a. HB 2006 will **require a person that is not lawfully present in the United States to pay non-resident fees at any state educational institution**. Your support will save money for Kansas taxpayers and will help bring Kansas law into compliance with federal law regarding unlawful aliens.

Currently, Kansas law rewards aliens who have violated federal law by allowing them to pay in-state tuition rates, rates that are denied to *lawful* aliens and out-of-state U.S. citizens. Aliens that have sneaked into our country or simply overstayed the limit on their visa have broken federal law and should not be rewarded for their actions. These illegal aliens attend our universities and colleges at preferential tuition rates, while aliens that respect and follow our laws pay non-resident fees.

Kansas is strapped for funds, so much that we are considering cutting state employee salaries and necessary services, while we continue to use Kansas taxpayer money to support persons who are not lawfully present in our country. The Kansas Board of Regents documented **413 students enrolled and paying in-state tuition rates under K.S.A. 76-731a in 2010**. Dennis Hodgins, Legislative Research, calculated **an estimated cost of \$573,120 per semester, or \$1.1 million per school year** (this is assuming the student attended two semesters, no summer school or winter term, and the students are undergraduates).

In 2005 there were 221 students enrolled under K.S.A. 76-731a. In five years the number of unlawful aliens attending state educational institutions has almost doubled.

The cost of graduate classes to Kansas taxpayers is much higher than undergraduate classes. For example, there is a \$7,975 difference between resident and non-resident students attending the Kansas University Master of Engineering program.

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Attachment |

Unlawful students are costing Kansas taxpayers. A report by Paul Soutar states, "The [Pew Hispanic] Center estimates that between 40,000 and 70,000 illegal immigrants resided in Kansas as of 2005." The report also states, "The Federation for American Immigration Reform (FAIR) estimates it costs Kansas taxpayers \$259 million annually to fund public K-12 education for illegal immigrants and children born to illegal immigrants." The number of students enrolled and paying in-state tuition rates under K.S.A. 76-731a has the potential to grow substantially.

Foreign exchange students, students that have obeyed the law and entered our country legally, pay non-resident fees in Kansas. As you consider your vote for HB2006, please consider that U.S. citizens and foreign-exchange students, *legal* aliens, pay higher rates to attend our state educational institutions than unlawful aliens. A vote of "yes" for HB2006 helps correct this injustice.

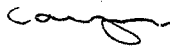
A repeal of these statutes does not prevent a student from attending a taxpayer-funded educational institution nor does it deny the ability of that individual to obtain citizenship. An unlawful alien may apply for U.S. citizenship at the age of 18 years. If under 18 years, they may become a naturalized citizen by at least one parent being or becoming a U.S. citizen. (Source: [www.uscis.gov](http://www.uscis.gov))

The state appropriates funds to state universities, community colleges, technical colleges, and Washburn University, as a state operating grant, retaining ownership and accountability for tuition fees. The less money that is collected for tuition fees means the Kansas taxpayers make up the difference. Therefore, it is costing the Kansas taxpayer when a person not lawfully in our country attends any state educational institution at in-state tuition rates.

Your support of HB2006 will stop taxpayer-funded benefits from going to unlawful aliens.

Thank you for your consideration and support.

Respectfully submitted,



Caryn Tyson  
Kansas State Representative District 4

Enclosure: 2



**Kansas University School of Engineering 2010-2011**

	<b>Graduate Resident</b>	<b>Graduate Non-Resident</b>
Tuition*	\$5,319	\$12,438
Fees**	\$1,596	\$1,646
Living Expenses***	\$10,598	\$11,404
<b>Total</b>	<b>\$17,513</b>	<b>\$25,488</b>

\*Based on 9 hours per semester for 2 semesters; Source: <http://www.engr.ku.edu/prospective/graduate/scholarships.html>

**Kansas State University School of Engineering 2010-2011**

	<b>Undergraduate Resident</b>	<b>Undergraduate Non-Resident</b>
Tuition*	\$6,228	\$16,520
Fees	\$704	\$704
Living Expenses	\$6,954	\$6,954
<b>Total</b>	<b>\$13,886</b>	<b>\$24,178</b>

\*Based on 14 hours per semester for 2 semesters; Source: <http://conser.k-state.edu/tuitionandcosts/>

**Kansas Board of Regents**  
**Student Headcount Enrolled under Provisions of K.S.A. 76-731a**  
**Fall 2005 - 2010 (Based on fall 20th day enrollments)**

Institution		2005	2006	2007	2008	2009	2010
<b>Public Universities</b>	Emporia State University	4	4	9	3	3	2
	Fort Hays State University	1	6	7	14	18	25
	University of Kansas and KUMC	4	8	11	10	11	14
	Kansas State University	4	4	7	11	10	15
	Pittsburg State University	1	2	2	4	1	1
	Washburn University Total	0	0	0	1	0	1
	Washburn University	0	0	0	0	0	1
	Washburn Institute of Technology	0	0	0	1	0	0
	Wichita State University	21	5 *	10	17	17	4
<b>Public Universities subtotal</b>		<b>35</b>	<b>29</b>	<b>46</b>	<b>60</b>	<b>60</b>	<b>62</b>
<b>Community Colleges</b>	Allen County	0	1	1	1	0	0
	Barton County	3	2	1	7	8	8
	Butler County	14	28	31	47	48	63
	Cloud County	0	0	0	10	1	0
	Coffeyville	4	0	0	0	0	0
	Colby	0	0	0	0	0	0
	Cowley County	2	2	2	1	0	0
	Dodge City	0	0	0	0	0	17
	Fort Scott	0	0	0	0	0	2
	Garden City	5	7	10	16	19	15
	Highland	0	0	2	2	0	0
	Hutchinson	2	2	6	2	5	8
	Independence	0	0	0	0	0	2
	Johnson County	51	40	69	64	78	84
	Kansas City KS	5	16	34	43	51	55
	Lafayette	0	0	0	0	0	0
	Neosho County	1	2	1	2	0	0
	Pratt	1	1	2	0	1	1
	Seward County	94	35 *	36	44	42	68
<b>Community College subtotal</b>		<b>182</b>	<b>136</b>	<b>196</b>	<b>239</b>	<b>253</b>	<b>323</b>
<b>Technical Institutions</b>	Flint Hills Technical College	3	0	1	1	1	10
	Manhattan Area Technical College	0	0	0	0	0	0
	North Central KS Technical College	0	0	0	0	0	0
	Northwest KS Technical College	0	0	0	1	0	0
	Salina Area Technical College	0	0	1	1	1	4
	Wichita Area Technical College	1	4	0	0	1	14
<b>Technical Institutions subtotal</b>		<b>4</b>	<b>4</b>	<b>2</b>	<b>3</b>	<b>3</b>	<b>28</b>
<b>Grand Total</b>		<b>221</b>	<b>169</b>	<b>243</b>	<b>302</b>	<b>316</b>	<b>413</b>

\* - decrease due to changes in institutional reporting procedure

Data source: KBOR report, institutional fall submissions, fall 2005 - 2010

**From:** Dennis Hodgins  
**Sent:** Monday, January 31, 2011 3:42 PM  
**To:** Caryn Tyson  
**Cc:** Raney Gilliland  
**Subject:** Request

Representative Tyson

You requested that I calculate the revenue lost per 15 hour semester for 413 illegal aliens granted in-state tuition as opposed to charging them out-of-state tuition

I calculated the revenue difference for each institute of higher education when the illegal alien is charged in-state as opposed to out-of-state. I then calculated what the revenue lost for 15 hours per semester of courses taken. For example, Barton County community college charges \$66.50 for in-state tuition and \$85.00 for out-of state tuition. The difference is \$31.00 per credit hour. There are eight registered illegal aliens attending Barton, so  $8 \times 31 = \$248.00$  lost to Barton County for charging eight students \$66.50 instead of \$85.00. I then calculated if the eight illegal aliens took 15 hours of credit per semester which was \$3720.00 lost. I calculated this for every institution reporting illegal aliens attending their school.

In summary: 413 illegal aliens taking 15 hours per semester at in-state tuition rate would result in a loss of revenue to the institutes of higher education of **\$ 573,120.00**

Let me know if this makes sense to you.

Dennis Hodgins  
Room 68-W- State Capitol Building  
300 SW Tenth Avenue  
Topeka, Kansas 66612-1504  
(ph) 785-296-7882  
(fax) 785-296-3824  
[dennis.hodgins@klrd.ks.gov](mailto:dennis.hodgins@klrd.ks.gov)

Mr. Chairman and Members of the Committee, I come before you on this matter at the express request of the Chairman so that I might provide legal background regarding H.B. 2006, the federal statutes that bear on this matter, and the legal options and barriers faced by an illegal alien who is a student at a public postsecondary institution in Kansas. During 2001-2003, I served as Counsel to U.S. Attorney General John Ashcroft at the U.S. Department of Justice. In that position, I was the Attorney General's chief advisor on immigration law matters. From 2004 to the present, I have been involved in litigation in various states on this specific issue.

I am here today to explain the legal framework surrounding K.S.A. 76-731a, which was enacted in 2004 and which stands in violation of federal law in several respects. As you know, K.S.A. 76-731a made in-state tuition rates available to illegal aliens. H.B. 2006 would repeal K.S.A. 76-731a and bring Kansas back into conformity with federal law.

### **Violation of 8 U.S.C. § 1623**

K.S.A. 76-731a violates the federal statutory prohibition found at 8 U.S.C. § 1623. In 1996, Congress passed a federal statute specifically prohibiting state governments from giving in-state tuition to illegal aliens. That provision was part of the larger Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). In that Act, Congress declared that no state may give in-state tuition benefits to illegal aliens unless the state extends the same tuition benefits to out-of-state U.S. citizens. The specific text of 8 U.S.C. § 1623 is as follows:

**Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.**

The intent of Congress in passing 8 U.S.C. § 1623 was unmistakable and unequivocal. The House Conference Report accompanying the bill explained Congress's intent clearly: "This section provides that *illegal aliens are not eligible for in-state tuition rates* at public institutions of higher education." Conference Report 104-828, H.R. 2202 (Sept. 24, 1996)(emphasis added). Senator Alan Simpson, sponsor of the Senate version of the bill, summarized the provision simply: "Illegal aliens will no longer be eligible for reduced in-State college tuition." 142 Cong. Rec. S11713 (1996). K.S.A. 76-731a plainly stands in violation of this federal statute.

### **Implied Preemption by Federal Immigration Law**

Under the Supremacy Clause of Article VI of the U.S. Constitution, a state law is constitutional if it is expressly preempted by federal law or if it is implicitly preempted by federal law. K.S.A. 76-731a is unconstitutional on both grounds. As noted above, it is expressly preempted by 8 U.S.C. § 1623—an act that Congress passed with the unmistakable intention of preventing states from offering in-state tuition rates to illegal aliens. However, even if 8 U.S.C. § 1623 had never been enacted by Congress, K.S.A. 76-731a would still be unconstitutional due to the fact that it is implicitly preempted by the Immigration and Nationality Act.

The Supreme Court explained how implied preemption occurs in immigration law in the landmark case of *DeCanas v. Bica*, 424 U.S. 351 (1976). As the Court explained, a state law that concerns immigration will be deemed unconstitutional if it "stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress' in enacting the INA." *Id.* at 363. K.S.A. 76-731a stands as an obstacle to the accomplishment of the objectives of Congress for two reasons.

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First, K.S.A. 76-731a plainly conflicts with the intent of Congress expressed in 8 U.S.C. § 1601(6): "It is a compelling government interest to remove the incentive for illegal immigration provided by the availability of public benefits." Eligibility for in-state tuition rates is a valuable public benefit, as that term is used in federal immigration law. By providing this benefit to aliens unlawfully present in the United States, K.S.A. 76-731a conflicts with the objectives of Congress.

Second, K.S.A. 76-731a stands as an obstacle to the enforcement of the Immigration and Nationality Act, generally, because an illegal alien is not eligible to receive this benefit unless he remains in the state of Kansas unlawfully and attends a public institution of higher education. If an alien leaves the United States, as required by federal law, or if he obtains a student visa to attend college legally, he loses eligibility for the benefit provided by K.S.A. 76-731a. Thus, he is rewarded by the state only if he continues to remain unlawfully present in the United States. This stands in direct conflict with federal immigration law, inducing illegal aliens to continue breaking federal law. Again, the U.S. Supreme Court has made clear that it is impermissible for any state to pass a statute that stands in conflict with federal objectives, as K.S.A. 76-731a plainly does.

### **The Status of Litigation**

Ten states have enacted laws that violate 8 U.S.C. § 1623 after California legislature became the first to pass such a statute (the California bill was initially vetoed by California Governor Gray Davis because of the conflict with federal law; but Gov. Davis subsequently signed a similar bill into law). That number was reduced to nine in 2007 when Oklahoma in 2007 corrected its error and stopped providing in-state tuition rates to additional illegal aliens. The violation of federal law has prompted litigation in four states, summarized as follows.

1. Kansas. In July 2004, a group of out-of-state U.S. citizen students brought a federal lawsuit challenging K.S.A. 76-731a. In 2007, the Tenth Circuit U.S. Court of Appeals ruled that out-of-state U.S. citizen students do not have standing to sue in federal court on this matter. No ruling was issued on the question of whether Kansas law violates federal law. Kansas remains vulnerable to a similar suit brought in state court, which has more permissive rules of standing. No such suit has yet been filed.

2. California. In December 2005, a group of out-of-state U.S. citizen students brought a state class action lawsuit against the California law upon which K.S.A. 76-731a was based. Because the suit was brought in state court, the plaintiffs were found to have standing to sue. In 2008, the California Court of Appeal ruled in a 3-0 decision that the state had violated federal law. However, in 2010, the California Supreme Court reversed the decision of the Court of Appeal, but failed to address all of the preemption issues in the case. That decision is being presented to the U.S. Supreme Court for review.

3. and 4. Nebraska and Texas. In 2010, lawsuits were filed in state court in Nebraska and Texas challenging those states' respective laws similar to K.S.A. 76-731a. The litigation in both states is at a very early stage and no opinion on the merits of the question has yet emerged from either state. In the Nebraska case, the district judge required the plaintiffs to first present a formal request to the Department of Homeland Security to take action against the state of Nebraska before the suit could proceed.

### **Policy Considerations**

The most obvious policy reason in favor of enacting H.B. 2006 is that it rewards those who are breaking federal law by giving them a valuable public benefit—one that is denied to U.S. citizens whose residences are out of state. However there are two other policy reasons in favor of enacting H.B. 2006 that may not be as readily apparent. They are as follows.

1. The state gains no productivity benefit from graduates who cannot legally utilize their degrees.

Proponents of K.S.A. 76-731a evidently believed in 2004 that it would help educate future members of the Kansas workforce. What those proponents evidently failed to realize is that the illegal aliens students cannot legally work in Kansas after they graduate. Indeed, they cannot legally work anywhere in the United States. 8 U.S.C. § 1324(a) makes it a crime for any employer to hire them. Moreover, the companies that look for college-educated employees are much more careful about observing federal immigration laws than are employers who rely on unskilled illegal alien labor. As the *Wall Street Journal* reported in May 2005, the illegal alien students coming out of California's universities after benefiting from in-state tuition were unable to find employment for precisely this reason. Numerous subsequent reports have confirmed this finding. Kansas is spending millions of dollars educating a workforce that cannot utilize their college degrees. The assertion that K.S.A. 76-731a somehow benefits the state by creating a more productive workforce is a fallacy.

2. K.S.A. 76-731a actually harms its intended beneficiaries more than it helps them. Indeed K.S.A. 76-

731a makes it unlikely that these aliens will ever become U.S. citizens and realize the American dream. Essentially, the state of Kansas is luring these young adults to stay in Kansas with the promise of taxpayer-subsidized tuition. However, this is a primrose path. What the aliens are not told is that they end up committing a serious and continuing violation of federal immigration law. Under federal law, aliens who accrue one year of unlawful presence in the United States are barred from obtaining a visa for ten years. And the presence of this immigration violation on their records makes it virtually impossible for them to obtain a visa even after the ten years has elapsed. K.S.A. 76-731a is leading these aliens down a dead-end road. They would be much better off returning to their country of origin when they reach the age of eighteen, staying with family members there, and applying for student visas to attend college in the United States legally. Thereafter, a lawfully-admitted alien can seek to adjust his status, become a permanent resident, and eventually seek citizenship.

For all of the above-stated reasons, I urge the committee to bring Kansas back into compliance with federal law by enacting H.B. 2006.

February 8th, 2011  
Testimony by Lynne Oharah – Proponent for HB2006

Mr. Chairman  
Distinguish members of the Federal and State Committee

Thank you for the opportunity to testify before you today. I am here to support HB 2006 - Repeal of K.S.A. 76-731a, which grants residency for tuition purposes to certain aliens who are unlawfully present in the United States.

How to Cook the Proverbial Frog. A frog was put into a pot of warm water. The frog was comfortable and did not jump out. The heat was turned up and the water got hotter but the frog being comfortable only wiggled and squirmed but did not jump out of the pot. The water began to boil but frog thinking he was comfortable refused to jump. On the other hand, if you throw a frog into a boiling pot of water the frog will jump out. The moral of this story is we should not let ourselves become too comfortable in the present. We need to keep an eye on the future to make sure things are not changing.

A study by the Federation for American Immigration Reform (FAIR) the annual bill to U.S. taxpayers for illegal immigration is \$100 billion and about 75 percent of the total is borne by state and local taxpayers. In Kansas that bill is estimated to be \$442 million a year. Schools, which account for the biggest cost of illegal immigration to taxpayers, don't ask about a student's citizenship status. FAIR estimates it costs Kansas taxpayers \$259 million annually to fund public K-12 education for illegal immigrants and children born here to illegal immigrants. This study does not include the cost to taxpayers for providing in-state tuition to illegal aliens. This cost cannot be determined due to restrictions on asking citizenship status.

With a Kansas budget gap of \$500 million you would think that Kansas would want to address the \$442 million dollars annual cost that illegal immigration costing our state. We are faced with draconian cuts to K thru 12 education funding, elimination of agencies, elimination of 2000 FTE positions, reduction in payrolls and elimination of funding for programs and Kansas still insist on providing in-state tuition to a segment of the population that is here illegally.

The Immigration Nationality Act of 1996 prohibits access to in-state tuition benefits by undocumented students (section 8 USC 1623) It reads "...an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit...". Kansas has bypassed this Act by passing its own law allowing these benefits.

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I am highly supportive of immigrants that have obtained citizenship legally, in fact most of us here today is related to someone who immigrated to the United States, but is unfair to require these same citizens to help foot the bill for in-state tuition benefits provided to people who are here illegally.

Obtaining an education paramount in being successful but what good is an education to a person who cannot legally be employed in these United States or are we, as citizens, being required educate other countries citizens at a reduced cost.

I ask those of you who are businesses owners; would you break federal law and hire a Kansas educated illegal immigrant? If so, who is going to supply a false Social Security Number? Would you use e-verify to check the citizenship status of the person you are hiring. What would you do if e-verify confirmed that the person you want to hire is not here legally? Are you ok with this illegal immigrant driving on your streets with a fake driver's license and would you be comfortable that this illegal immigrant would be an insured driver? If you said you would hire an illegal immigrant, would your next step be to support giving illegal immigrants the right to vote in Kansas?

In closing, John Adams stated we are "a nation of laws, not of men". It is up to each of us as citizens of these United State to uphold our constitution and obey our laws. We cannot only enforce and obey laws that we like. Turning a blind eye and ignoring a problem does not make the problem go away. If Kansas continues down the path of providing State benefits to Illegal aliens we will become a sanctuary state to a segment of the population that legally does not exist.

Thank You

Lynne Oharah  
2120 95<sup>th</sup> St.  
Uniontown, Kansas  
Home Ph: 620-743-0144  
Cell Ph: 620-215-3120

Sources:

- Federation for American Immigration Reform
- [numbersusa.com/content/learn/enforcement/statelocal-policies/in-state-tuition/map-states-with-in-state-tuition-laws.html](http://numbersusa.com/content/learn/enforcement/statelocal-policies/in-state-tuition/map-states-with-in-state-tuition-laws.html)



## **Testimony to Repeal KSA 76-731(a)**

**Kansas is in Non-Compliance with Federal Law, 8 U.S.C. 1623(a).**

**This law states: "Notwithstanding any other provision of law, an alien who is NOT lawfully present in the United States shall NOT be eligible on the basis of residence within a State (or political subdivision) for any postsecondary education benefit unless a CITIZEN or National of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the CITIZEN or National is such a resident." Date effective: July 1, 1998.**

**Some officials at state universities and colleges and even some state legislators seem to think they can get by with flagrantly disobeying Federal Law.**

**Kansas, legislatively, has thumbed its nose to Federal Law, by granting instate tuition rates to people living illegally in our Country. Doing so, gives a taxpayer benefit denied to a U.S. Citizen. This is a windfall given despite the fact that our state is currently broke.**

**Shouldn't our public officials, of all people respect the Rule of Law?**

**Many states circumvent Federal Law by simply not asking student applicants if they are legally in our Country.**

**Qualifying for this tuition usually leads to financial aid, and Americans, nationally, already provide illegal aliens with Billions of taxpayer paid benefits at our K-12 Public Schools and our hospitals.**

**So, we educate these illegal aliens, but legally, they cannot be hired for work. Many will return to their home country, armed with a subsidized American education to work there.**

**What part of No Trespassing do you, our elected officials not understand?**

**Please support the Repeal of KSA 76-731(a), by voting YES on HB 2006.**

**Nancy Hanahan, Overland Park, KS**

House Fed & State Affairs

Date: 2.8.11

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I support HB 2006, denying in-state tuition to illegals.

1. Let's take a step back for a moment and see the forest, not the trees. WHAT ARE WE DOING HERE, TODAY, AT THIS HEARING? We are **debating** whether about 30 million illegal aliens-not 'undocumented workers'; not 'immigrants', **illegal aliens**-who have already broken the law by entering our country, evading Immigration to do so, then unlawfully remaining here and, again, unlawfully working here: **should continue to receive in-state tuition rates at our Kansas Universities and Junior Colleges? Hello! WHAT'S WRONG WITH THIS PICTURE? HOW CRAZY IS THAT?**

2. What other nation-including Mexico-maintains POROUS BORDERS, THEN apologizes for maintaining its borders, language and culture? Mex. pres. was recently here, and when a reporter asked him if people who crash Mexico's border get to reside there and take Mexican jobs, the Pres. replied 'No! we make them to leave!'. He neglected to mention that they 'make them to leave' after catching illegal aliens and putting them in jail where they do not enjoy constitutional rights. When he said that, no one called him a racist, or a bigot.

3. The USA- Our beloved country-is not the Welfare State to the world. We're not the ER to the world, and we're sure not the 'Free Educational System' to the world. We aren't 'lucky' to be so rich, and powerful. That implies winning the lottery. We're the greatest nation on this earth, the most benevolent, the richest, and the most powerful because, in not even 300 years of existence we worked our butts off to get that way! EVERY SINGLE NATION IN THE WORLD IS LESS 'ADVANTAGED' THAN WE ARE. Does that mean we owe them all a free ride, an open border, and every cent we have 'til we ourselves are bankrupt? We're already collapsing under the weight of this horde of invaders. For every dollar they make, they take 3 (which we are dumb enough to give them) in social services. What do illegals already get? A FREE K-12 EDUCATION. WIC BENEFITS. FREE ER/MEDICAL TREATMENT. NONE OF WHICH IS FREE 'CAUSE WE-THE-PEOPLE PAY for it.

5. As we speak, our country is bankrupt, beholden to unfriendly nations like China. Why? Because we have a non-secured border which says to the illegals: COME ON IN! DRAIN US DRY!

6. Finally: It's often said that if we deny the illegals this new bunch of benefits, we'll 'pay at the other end'. At a recent BOT meeting at JCCC, ex-BOT member Stephanie Sharp threatened that 'if we don't give them in-state, they'll fill our jails and commit crimes'. It's a little late for that consideration, since illegals comprise 1/3 the population of our Fed. prisons but who are the illegals to hold us hostage to their demands? I'm a citizen, and I don't get instate tuition at JCCC now that I live in Missouri. **Should I threaten to commit criminal acts unless I get that?**

In closing, I'd like to say 'When I get to know you better I'll tell you how I really feel'. I'm a Roman Catholic, and an American, and no Church or country gives more in aid than that Church and this Country. But that is charity, NOT AN ENTITLEMENT. Far from continuing to give in-state tuition to illegals, I ask this legislature to turn off the spigot of every single 'entitlement' illegals receive, so they'll self-deport, and we can all stop 'pushing 1 for English'.

Kathy Brown, Esq.

House Fed & State Affairs

Date: 2.8.11

Attachment

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**Dennis Bixby**  
704 East St.  
Tonganoxie, KS 66086  
913-369-9871

Testimony in support of HB 2006 - (Repeal of K.S.A. 76 - 731a, which grants residency for tuition purposes to certain aliens who are unlawfully present in the United States.)

1. Kansas is in debt and cannot meet its current obligations to its citizens without cutting the budget or increasing taxes.
2. To pay in-state subsidies to illegal aliens would be a kin to rewarding illegal behavior.
3. In-state tuition subsidies are not currently offered to members of the military from other states but who are stationed in Kansas.

For me this battle is also personal. On February 14, 2007, my daughter Amanda was on her way home from work. On Highway 24 & 158<sup>th</sup> St. in Basehor, KS, an illegal alien who was speeding and eluding police, ran a stop sign. He injured 3 people in an SUV before hitting my daughter's car and killing her.

Ricardo DeLeon Flores (a Mexican citizen) had lived in this country for 4 years. He did not have a driver's license. Landscaping contractors had given him work. It took 18 months for a federal judge asked for him to take 45 days to get his affairs in order and to leave the country. Meanwhile he is driving up and down Kansas streets and highways. I am told he is now wanted on federal arrest warrants for crimes in both Texas and Louisiana. He enjoys "life, liberty and the pursuit of happiness" but my daughter does not.

Some will say that citizens won't do some of these jobs. Some will say that Kansas needs cheap labor in order to grow. Cheap labor cost Amanda Bixby everything. She no longer has the opportunity at a college education because it was stolen from her.

Opportunity, the promise of jobs, is what attracted Flores to come to Kansas. Opportunity is what is driving the forces of giving in-state tuition to illegal aliens. To put it quite simple, if you want more bad behavior you will vote to subsidize it. If however,

- you recognize that the tax dollars belong to the people
- you recognize the majority of Kansans are against spending their money in this way
- you want to vote to preserve our way of life for citizens and legal immigrants
- you acknowledge that "illegal" means "illegal"

then you will vote to repeal this bill. By reducing the opportunities for illegal aliens to thrive in this state, you will reduce the un-taxed underground economy and the drain on the state's educational, healthcare, welfare and penal institutions. In these difficult times, prosperity is within our grasp if we will just turn loose of what is wrong in order to grab on to what is right.

House Fed & State Affairs  
Date: 2.8.11

Attachment 6

**Kansas House Committee on Federal and State Affairs**

Public Hearing on February 8th, 2011 at 1:30 PM, Room 346S.

Testimony by Earl Long

Reference: HB2006 Repeal of KSA 76-731a which grants residency for tuition purposes to certain illegal aliens who are unlawfully present in the United States.

The earlier bill, this proposed legislation will change, had at least two unintended consequences that were experienced by my family and in particular my granddaughter.

1. A Kansas resident is denied in state tuition.
2. An illegal alien is granted in state tuition.

My granddaughter has been denied residency status for in state tuition even though she has been a resident of Kansas by any measure, for almost two years. The interpretation of the law by Colleges and Universities was too narrow and motivated by a need to increase revenue. This change would require the Colleges and Universities to grant her "instate" tuition.

As I interpret the first paragraph (lines 10 through 14) of the proposed legislation she is a domiciliary resident, and has been for more than 12 months, she would therefore qualify as a resident for fee purposes. K State nor any other state educational institution could not deny her instate tuition under this bill.

The removal of a special class referred to in paragraph (d) is very clear.

**I therefore support the passage of this bill.**

**Improvements:** These are suggested modifications of the language to further clarify the intent of the sponsors of this bill.

1. Regarding the definition "Domiciliary Resident". The proof of this status should be based on at least two pieces of documented evidence from this list:
  - a. Permanent home address confirmed by the U.S. Postal Service.
  - b. Current Drivers License with Photo ID showing the permanent home address.
  - c. Vehicle title showing the permanent home address.
  - d. Vehicle registration at the permanent home address.
  - e. Voter registration card or letter showing the permanent home address.
  - f. Twelve months of utility bills showing permanent home address.
  - g. State income tax return showing the permanent home address.
  - h. Tax Forms W-2 or 1099 showing income earned in Kansas.
2. Regarding the exclusion of illegal immigrants. There may be a small number of people who fit this definition that are now enrolled in state colleges and universities. They might be "grandfathered" allowing them to complete their degree within a few years. This law might then take affect for students that had not been previously enrolled.

**Background Information:** My granddaughter is a victim of the unintended consequences of the current legislation. Even though she meets all of the above tests for residency she has been denied instate residency status by Kansas State University. Her letter to KSU is available upon request by members of this committee however it contains personal information and therefore a copy is not attached.

The entire Long family, with four generations of Kansas residents, will be pleased when this bill becomes law.

Earl Long

House Fed & State Affairs

Date: 2.8.11

Attachment

7

W. Paul Degener  
P.O. Box 8536  
Topeka, KS 66608-0536  
(785) 246-0215  
E-mail: [w.degener@sbcglobal.net](mailto:w.degener@sbcglobal.net)

SUBJECT: HB 2006, Rescission of In-State Tuition for Illegal Aliens

February 6, 2011

Good afternoon Mr. Chairman and members of the committee.

My name is Paul Degener and I appear here today as a concerned citizen in support of HB 2006.

In 2004, the Kansas Legislature passed legislation granting in-state tuition to children of illegal aliens, a bill that I testified against. Hopefully, we are here today to right that wrong.

I would like to know what it is that many of us do not understand about illegal. You can call them undocumented immigrants or whatever other terms you want, but they are still illegal aliens. Some of them state that they are human beings and not from outer space. I don't know who has been brain washing them or what dictionary they might be using, but my dictionary defines an alien as a person from a foreign country. They have entered this country, with their children in tow, illegally, and they know they are here illegally, or they would not be hiding in the shadows. It may be politically incorrect, but technically they are illegal aliens.

I agree that the children are caught between a rock and a hard spot, but do not punish me and other tax paying United States Citizens for the illegal conduct of their parents. And it does not stop with just crossing the border illegally, they purchase illegal driver's licenses, they steal social security numbers, they steal identities and there have been several instances of them killing U.S. Citizens by driving while intoxicated, and that does not include the rape, pillage and burn activities going on in the southwest.

In 2004, the state of Kansas rewarded illegal aliens, by allowing them to pay in-state tuition fees while attending our universities. The state of Kansas gave favor to illegal aliens over United States Citizens by rewarding them with in-state tuition. My college days are over, but I am offended that preferential treatment is given to illegal aliens over United States Citizens.

But sadly, I have to say that there is an even bigger culprit in all of this than the state of Kansas or the illegal aliens. And that culprit is the United States Congress and the White House. They have blatantly violated Article IV, Section 4 of the United States Constitution, and I quote:

**Article IV, Section 4.**

**The United States shall guarantee to every State in this Union a Republican Form of Government, and shall protect each of them against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.**

We have been invaded for years by illegal aliens and the current and past Congresses go through the motions of curbing the tide of illegal aliens by building walls, but as usual with the federal government, they have lived up to the low standards which they have set for themselves. I imagine that the ladder business on the south side of the border is thriving.

I urge you to pass this legislation and let us quit rewarding criminal activity, or as a minimum, give U.S. Citizens the same tuition breaks we give illegal aliens.

I will stand for any questions.

8-2

State of Kansas  
House of Representatives

State Capitol  
Topeka, Kansas 66612  
(785) 296-7671  
connie.obrien@house.ks.gov



P.O. Box 61  
Tonganoxie, Kansas 66086  
(913) 706-2396

Connie O'Brien  
Representative, 42nd District

Chairman Brunk and members of the Federal and State Affairs committee.

In August of 2010, I accompanied my son who was enrolling in Kansas City Kansas Community College for the first time. I was along for moral support. My son had filled out his Federal Student Aid form and was told he was not eligible for any student aid. We were told to proceed to the business office and ask for a payment plan.

When we arrived at the business office there was a line. We waited for our turn. There was a line on the floor and everyone, unless you were being waited on, was to wait behind the line. The line was getting longer, so finally another clerk opened up and had us come forward. While we were discussing our financial aid we could not help but hear what was going on beside us.

A young woman had asked to receive her scholarship money and the clerk asked to see a photo ID. The young woman responded with, "I don't have a photo ID." The clerk then asked to see a state issued ID and again the young woman responded with, "I don't have a state issued ID." Then clerk asked if young woman, "Did you drive to get here?" The woman responded with, "Yes I did drive." The clerk then asked, "Do you have a drivers license?" The young woman responded, "No, I don't have a drivers license." The clerk asked, "You drove here?" "Yes I drove here," said the woman. "But, you don't have a drivers license?" asked the clerk. "No, I don't have a drivers license," the young woman repeated. The clerk then said, "You have no state or federal issued photo ID." The young woman replied again, "I don't have a photo ID." The clerk said, "I cannot give you your scholarship money without a photo ID."

The young woman then asked if she could talk to someone else. I do not know what happened after that, but both my son and I thought she probably was an illegal citizen.

If you have any questions I would be glad to answer them.

Thank you.

House Fed & State Affairs

Date: 2.8.11

Attachment 9

STATE OF KANSAS

**VIRGIL PECK, JR.**

REPRESENTATIVE, DISTRICT 11

BOX 277

TYRO, KANSAS 67364

STATE CAPITOL, 561-W

TOPEKA, KANSAS 66612

(785) 296-7641



COMMITTEE ASSIGNMENTS:

CHAIRMAN: TRANSPORTATION AND  
PUBLIC SAFETY BUDGET

MEMBER: APPROPRIATIONS  
COMMERCE & ECONOMIC  
DEVELOPMENT  
LEGISLATIVE POST AUDIT  
JOINT CORRECTIONS &  
JUVENILE JUSTICE OVERSIGHT

HOUSE OF REPRESENTATIVES

**To: The Honorable Steve Brunk  
And Members of the Federal and State Committee**

**From: Virgil Peck, Jr.  
Representative, 11<sup>th</sup> District**

**Re: Testimony Supporting HB 2006**

**February 8, 2011**

Chairman Brunk and Committee members, I appreciate the opportunity to appear before you in support of **HB 2006**. Although I could talk about several reasons why we should pass **HB 2006**, such as federal law against special benefits to non-citizens that are not offered to citizens and the fact that illegal immigrants who have their college tuition subsidized by Kansas taxpayers can't legally become employed in the U.S. after graduating. I will focus on one thing; we should do what an overwhelming majority of Kansas voters want us to do.

The statute to allow some illegal immigrants to receive a discount on their college tuition passed the Legislature in 2004; which was prior to my arrival to the Legislature, as well as most of you. That one vote in 2004 upset many Kansas voters and greatly helped me win a close election that November. Subsequent votes by some legislators in opposition to repealing the special benefit for illegal immigrants has continued to draw the ire of our constituents and helped some of our current colleagues defeat incumbents. My point is, a large majority of Kansas voters oppose using their tax dollars to subsidize the college tuition of illegal immigrants. Our responsibility as legislators is to represent the voters of our districts, and illegal immigrants are not voters.

Passage of **HB 2006** will not stop illegal immigrants from attending a Kansas college or university. They can still attend by paying out-of state tuition.

One final point. When looking at the projections as to how many students are illegal immigrants and paying in-state tuition, keep in mind that some institutions of higher learning don't ask the immigrant status of students. I think they should and that may be something this committee wants to add language to this bill to require.

House Fed & State Affairs

Date: 2.8.11

Attachment 10



FEDERAL AND STATE COMMITTEE

Testimony of Concerned Taxpayer Renee Slinkard, February 8, 2011

Re: Repealing of granting residency for tuition purposes to aliens who are unlawfully present in the United States.

Chairman  
Federal and State Committee

My name is Renee Slinkard and I am a concerned Kansas Taxpayer. I am here today as a proponent for repealing in-state tuition for certain aliens who are unlawfully present in Kansas.

As a long time taxpayer in Wyandotte and Bourbon County, with residence in Linn County, Kansas, I do not want my tax dollars being spent on in-state tuition for illegal aliens. I urge you Chairman and Committee to vote "YES" to repeal K.S.A. 76-731a.

Thank you for allowing me to speak today.

Renee Slinkard  
Resident Linn County Kansas  
Taxpayer in Wyandotte, Linn and Bourbon County Kansas  
You may email me at 4slink@embarqmail.com

House Fed & State Affairs

Date: 2.8.11

Attachment 11

According to University of Kansas, 2010 Freshmen – Kansas Residents pay \$3937 per semester and Nonresidents pay \$10340 per semester.

Even in a situation, an illegal alien has lived here most of his life, giving him a \$6400 tuition break per semester is a reward for either his or his parents' illegally entering the country. It is totally defiance of common sense.

Furthermore, some people may argue that making it cheaper for illegal aliens to attend college here will be good for the state economy. But, there is no evidence that taxpayers paying more of the bill for the education of illegal aliens will have a measurable impact on the quality of the work force because the illegal aliens are not allowed to work in the US.

At the same time, there is a measurable cost to taxpayers in extending this benefit to illegal aliens. In the name of fairness, relief should target those families who have paid their taxes and not cut legal corners for their children's education, such as US residents from other States.

Helen Van Etten

Topeka, Kansas

House Fed & State Affairs

Date: 2.8.11

Attachment 12

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**From:** elliedavey [elliedavey@embarqmail.com]  
**Sent:** Sunday, February 06, 2011 4:41 PM  
**Subject:** HB-2006 Repeal of K.S.A.76-731a

To the Honorable Steve Brunk, Committee Chairman, and Committee members:

Please accept the following as my personal testimony in support of the repeal of K.S.A. 76-731a, which grants residency for tuition purposes to certain aliens who are unlawfully present in the United States.

The fact that the State of Kansas is rewarding people for breaking the law galls me. I entered the United States of America as a permanent legal resident of the United States of America on July 9<sup>th</sup>, 1962. I had to meet certain requirements in order to do this.

# 1 I had to have a sponsor, someone who vouch for me and be willing to support me if I could not support myself.

# 2 I had to have employment waiting for my arrival in the United States

# 3 I had to be cleared by all law enforcement in the Country I was leaving which in my case was Canada. Therefore the Mounties had to verify that I was in fact law abiding

# 4 I had to be cleared by the F.B.I in the same fashion.

# 5 I had to present a Canadian passport

# 6 I was issued a Green Card which I was required to carry at all times in my billfold the same way you carry a Driver's License.

# 7 Every January I had to report to the Immigration Services by going to the Post Office and filling out a card provided by them which reflected my Alien # ,Name and current address.

At that same point in time, people who wanted to further their education in this country came on a Student Visa which allowed them to attend school. When their Visa expired they had to return to their home country.

It is my understanding that all these laws still remain on the books; they are just not enforced.

I strongly urge the legislature to please repeal any and all legislation that rewards people for being here illegally and get down to the business of enforcing the immigration laws that are already on the books.

Respectfully,

Ellie Davey,  
Mound City, Kansas

House Fed & State Affairs

Date: 2.8.11

Attachment 13

**TO REP. STEVE BRUNK, COMMITTEE CHRM. AND  
COMMITTEE MEMBERS**

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**02/08/2011**

**My name is Jeffrey Locke and by way of introduction I have been and I am currently employed as a full-time public school/community college instructor for over twenty years. I have been selected for Who's Who in American Education three times by way of the nomination of three different honor students in three different years.**

**I state now in this written testimony that I believe that no student of illegal alien status should be able to qualify for in-state tuition as a matter of being consistent under the "rule of law". Illegal is just what it means and that's what Representative Caryn Tyson is attempting to define for the purposes of fairness under our state's laws.**

**It is with deep concern in support of this legislative proposal that I submit this statement of belief to the legislative body meeting this day of public hearing in the Kansas House of Representatives in Topeka, Kansas.**

**Jeffrey G. Locke  
118 West Main  
Arma, KS. 66712-4020**

House Fed & State Affairs

Date: 2.8.11

Attachment 14

My name is Kandy Abernathy and I am a resident of the State of Missouri. I have 3 children: Jacey (17), Brooke (13), and Shane (8). Jacey is currently a junior in high school, Brooke is in the 8<sup>th</sup> grade, and Shane is in 3<sup>rd</sup>.

Jacey has been checking into colleges and trying to make decisions that are going to affect her for the rest of her life. She is a very intelligent young lady, and this is something that she is taking very seriously.

It has become quite apparent that one of the schools that Jacey would like to attend to obtain her college degree is in the State of Kansas. She has looked at various options, colleges, programs, degrees, etc., and this has been a decision that all of us have put a lot of time and effort into making.

I have been a resident of the State of Missouri my entire lifetime, have a valid drivers license, have paid personal, school, city and property taxes, and am a registered voter. By our daughter making the educated decision to attend a college in the State of Kansas, it is going to cost us a tremendous amount of extra money, due to paying out-of-state tuition.

How is it fair that an illegal immigrant, who is not a resident of the State of Kansas, or anywhere else for that matter of fact, does not have to pay out-of-state tuition to attend a Kansas college?

House Fed & State Affairs

Date: 2.8.11

Attachment 15

Testimony for Fed and State Committee  
February 1, 2011

Dear Chairman Brunk,

I am contacting you about illegal aliens from any country, of any gender, or age. I expect that you will have a number of students crying in your presence, begging for the chance to go to college, and expecting me and my fellow Kansans to pay for that.

I, an American, am a legal, taxpaying, voting citizen of Kansas. I have raised four children here. I have seven grandchildren being raised in Kansas as well. I was once refused a pell grant as a divorced mother of four, not living on welfare. The thirty plus days that I stayed with my parents, rendered me ineligible due to their income level. One of my sons was denied a grant, due to my then new husband's income-from before I ever met him. I can't send the last two of my children to college due to financial constraints, so, how in good conscience, could legislators force me to pay for illegals?

I hope this explains that I fully understand, that college enrollment is a privilege, not a right. And illegal aliens from ANY country do not hold MY rights. Rights, are prescribed by the laws of the State of Kansas, for the legal citizens of our Great State.

I strongly oppose paying for the tuition, housing, food, books, or any other costs for any person who is breaking State or Federal laws. Lawmakers should make laws, review, and repeal laws that are not in the best interest of legal Kansas citizens.

I thank you for the opportunity to exercise my right to speak to our representative form of government, and for the efforts you are taking to address such a serious issue.

Sincerely,

Linda Haverfield  
20018 Gireau Rd  
Parker, KS 66072  
913-898-2915

House Fed & State Affairs

Date: 2.8.11

Attachment 16

February 8, 2011

1:30 PM

Kansas House State and Federal Affairs Committee

Re: In-State Tuition for Illegal Immigrants

Mr. Chairman, Committee Members, Good Afternoon.

My name is Ken Dunwoody, I live in Johnson County.

I am here today to speak for Sarah. Sarah grew up on the family farm, not far from where I live. No body remembers her 15<sup>th</sup> birthday, it was September 11, 2002. That year and for the next few more, for her that day was a day of reflection. Who was she? What was her value and more importantly as an American, what was her debt?

Sarah did very well in high school and graduated with Honors. Her family wanted her to continue her education and then take over the farm. She enlisted in the Army and to serve the best she could she volunteered to be a Combat Medic.

Her first tour in Iraq was somewhat uneventful, as uneventful as Iraq could be in 2006. Her second tour was much closer to the actual combat activities. She saw all the horror and terror a war can generate. With a sense of calm, she found herself, she knew why she was there, she felt pride and bore the full weight of the cost of freedom.

In 2008 she came home to a Hero's welcome. She looked forward to seeing her family for a while before entering K-State, she was going to get that degree in Agriculture and work the family farm. During the hardest times over the last four years, when she got home sick she remembered the site and sounds of that squeaky kitchen screen door that went out back. She loved that door. That would be her "Home Coming".

On that first Sunday home and at the age of 22 for the first time she heard that squeaky screen door slam shut while her parents explained that the family farm had been annexed by Overland Park, it wasn't going to be a farm anymore. Sarah viewed that as another challenge but not one to stop her from her dreams. She packed up and moved to Manhattan.

This year she is a Junior and doing extremely well academically. Emotionally and physically is a bit more of a struggle. She catches some of the other students staring at her and sometimes laughing as they turn and walk away. She wonders if it's that scare on her face or the three teeth she's missing. Or is it her noticeable limp?

Her last year in the Army was spent at Walter Reed Medical Center, not as a medical technician, but as a wounded Hero. When she was injured, they tried to save her right leg, but they could not find it. Now her prosthetic is just an extension of her and she rarely even thinks about it. Unless it's icy outside, or she needs to walk fast to class, or asked why she is limping after asked out on a date or when these same two people laugh and walk away.

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Attachment 17

Yesterday she confronted these two young men and asked them what was so funny. In broken English they told her that as children their families came to Garden City, Kansas as illegal immigrants. As children they received free meals at school, free medical care and educated in their native language. Now as adults they still get food stamps, free medical care and pay the same tuition as her. They believe that Sarah was naïve and foolish to have paid so much to end up just like them, or with less than them.

Sarah cried last night. Not for her but for us. Sarah knows how history will judge her and she has no regrets. She asks if you do? Do you have regrets?

Thank you.

Ken Dunwoody  
NOlathe.net



Let me preface this by telling you that I am married to a man that was originally from Mexico and is now a citizen of America. I have learned allot about people here illegally and their trials.

I am against giving people that are in this country illegally instate tuition.

My son paid 10 thousand dollars his 1<sup>st</sup> semester at KU. Studies have shown that giving instate tuition to illegal aliens cost the state millions. If that money was spent giving citizens of our state a lower tuition instead then we could help out the people of our own country and state who are here legally. And with the bad economic times this is especially important.

A person from Colorado our neighboring state cannot get instate tuition but someone from another country who has disregarded our laws from the get go by coming here without doing the proper paperwork gets rewarded by getting instate tuition is just not right.

We should not encourage people to do anything illegal, or allow them to benefit from doing an illegal act. Coming to this country illegally and then benefiting by getting things that our citizens get like instate tuition is like someone stealing from my house and buying a big diamond ring with the money and everyone thinking that it is ok.

An illegal act is illegal and therefore everything that is benefited from that act is illegal. If a drug dealer gets caught everything that was bought with the illegal proceeds gets confiscated. The same thing should be for people who are here illegally. They should not be rewarded.

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Attachment 18

My name is Ed Hayes  
I am Director for the Minutemen of Kansas and Missouri  
although we have members in other states and many supporters nationally

I am here in support of Secretary of State Kobach's bill for the following reasons:

The in state tuition breaks for illegals is one of the magnets that brings illegals to Kansas, the magnets must be turned off!

Almost all states surrounding Kansas have illegal alien bills crafted by Secretary Kobach  
Nebraska is the only holdout however they are going to pass a bill soon?

This leaves Kansas as THE FUNNEL of America when it comes to illegals needing a sanctuary. This was proven when Oklahoma passed HB 1804 in May of 2007. The folks in the southern Kansas counties witnessed an influx of Oklahoma license plates overnight settling in their areas. The Tulsa WORLD NEWS reported this "Since 1804 was approved in Oklahoma, 15,000-25,000 illegal immigrants have left Tulsa County, the Greater Tulsa Hispanic Chamber of Commerce says, Executive Director Francisco Trevi who bases the estimate on school enrollment, church attendance and reports from bus companies with service to Mexico."

We are sitting right smack dab in the middle of states with the courage to do something about illegals  
UNLIKE KANSAS SO FAR. Our own ROTC does not get the advantages illegals do in education.

In 2008 HB 458 was crafted by Secretary of State Kobach and then State Senator Peggy Palmer who has more courage than any of the legislators who trashed that bill, some still lie about it and tell their constituents that they WERE for the bill, I live in one such person's district

At the time the office of Senator Ralph Ostmeyer reported calls were 300 to 1 in favor of SB 458 and the result of that? The bill was still trashed by some of the Kansas Senators who are still in office, hopefully only until the 2012 elections.

I witnessed the gutting of SB 458 to the point that it would have absolutely no affect. Since the bill wasn't supported by the Committee Chairman Brungardt and Vice Chairman Vratil I have real concerns about this current bill should they be involved. Last Friday evening Brungardt stated "Illegals do not cost Kansas anything." He will never have the interests of we the people in Kansas on his list, 2012 is coming up Pete and others. I also have concerns with some of the current house members as they were in the same mindset as some of the Senate backing big business; I have the list if anyone wants it. The downfall of SB 458 was mainly at the urging of the Chamber of Commerce, big business, churches and others who are all for pro illegals in Kansas for their own personal gains and memberships. If anyone has any doubts on any of this I have the documentation

The in state tuition breaks for illegals is one of the magnets that brings illegals to Kansas, the magnets must be turned off!



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Attachment 19